IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8086 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VASANT CINEMA

Versus

STATE OF GUJARAT

Appearance:

MR AJAY R MEHTA for Petitioner

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/07/2000

ORAL JUDGEMENT

Rule. At the suggestion of the Court, Mr KT Dave, learned AGP appears and waives service of Rule on behalf of the respondents.

2. In this petition under Article 226 of the Constitution, the petitioner, running a cinema hall-Vasant Cinema in Navsari, challenges the order dated 12.6.2000 (Annexure "A") suspending the petitioner's licence under Rule 131 of the Bombay Cinema Rules, 1954 read with Section 8-A of the Bombay Cinema (Regulation)

Act, 1953 for non-payment of entertainment tax dues. Aggrieved by the aforesaid order, the petitioner has challenged the same before the State Government in appeal. During pendency of the appeal, the petitioner also preferred a stay application on 12.7.2000. However, the appellate authority has not passed any order on the stay application and has simply adjourned the hearing of the appeal to 17.8.2000. Hence, the petitioner has approached this Court.

3. The learned counsel for the petitioner submits that there are various contentions available to the petitioner and respondent No.2-Collector could not have passed such order as the licence could not be suspended on the ground of non-payment of entertainment tax. However, in view of the fact that the petitioner is out of business, the petitioner is willing to abide by any conditions for restarting his business and, therefore, the petitioner is prepared to pay the amounts demanded in the impugned order dated 12.6.2000 (Annexure "A"). Those amounts are specified in the order and the same read as under :-

1. Entertainment tax from 12.11.99 to 18.5.2000	Rs.2,27,589/-
2. Interest on the aforesaid tax.	@ 24%
3. Interest on the arrears of entertainment tax	Rs. 61,598/-
4. Amount of film division	Rs. 2,026/-
5. Amount of penalty in three cases	Rs.1,70,530/-
Total	Rs.4,61,743/-

The petitioner has already paid Rs.1,98,125/-. The learned counsel for the petitioner states that the petitioner is prepared to pay the balance amounts within a reasonable period, if instalments are given.

4. Having heard Mr AR Mehta, learned counsel for the petitioner and Mr KT Dave, learned AGP for the respondents, it appears to the Court that in the facts and circumstances of the case, interests of justice would

be served if the following directions are given :-

(i) The petitioner shall file an undertaking before this Court stating that the petitioner shall pay the Collecter, Navsari

(a) the balance amount of entertainment tax with interest and penalty as indicated above as per the following instalments :-

The petitioner shall pay the Collector, Navsari an amount of Rs.31,495/(Rs.29,469 + Rs.2026) within ten days from today.

The balance amounts shall be paid in seventeen equal monthly instalments commencing from 31.8.2000 in such a manner that the entire amount of arrears of tax with interest and penalty as specified hereinabove is paid by 31.12.2001.

(b) that the petitioner shall be the Collector, Navsari the current Entertainment Tax regularly once the petitioner permitted to restart his cinema hall.

(c) that the petitioner shall not sell, lease or in any other manner transfer his interests in the cinemal hall, compound and machineries till all the arrears are cleared.

(d) that the petitioner shall withdraw the appeal pending before the appellate authority within one week.

(ii) Upon the petitioner filing an undertaking as aforesaid and upon the petitioner paying an amount of Rs.31,495/- as aforesaid, respondent No. 2 shall keep the impugned order of suspension dated 12.6.2000 in abeyance and shall permit the petitioner to run the cinema hall subject to compliance with the other terms and conditions of the licence. A copy of the undertaking shall be served on the learned AGP as well as the Collector, Navsari.

(iii) Once the aforesaid amounts are paid as per the aforesaid time schedule, the order of suspension

shall be revoked and treated as inoperative and non-existant, but in case the petitioner fails to comply with the aforesaid undertaking, these directions will cease to operate and it will be open to the respondent to pass appropriate orders in accordance with law.

It is directed accordingly and the petition is disposed of in terms of the aforesaid directions.

5. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

Direct Service is permitted.

July 24, 2000 (M.S. Shah, J.)
sundar/-